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February 8, 2013

Ms. Jocelyn Boyd
Chief Clerk and Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210

Re: South Carolina Telephone Coalition Petition to Modify Alternative
Regulation Plans Filed Pursuant to S.C. Code Ann. S 58-9-576(B) to
Take Into Account Recent Action by the Federal Communications
Commission
Docket No. 2013 - ____ - C

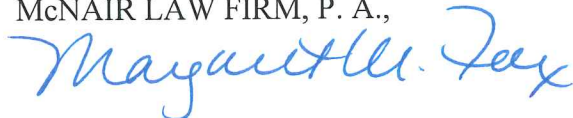
Dear Ms. Boyd:

Enclosed for filing on behalf of the South Carolina Telephone Coalition,
please find a Petition in the above-referenced matter.

Thank you for your assistance.

Very truly yours,

McNAIR LAW FIRM, P. A.,



Margaret M. Fox

MMF:rwm
Enclosures

cc: Nanette S. Edwards, Esquire, ORS

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BEFORE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
Docket No. 2013-____-C

In Re: South Carolina Telephone Coalition Petition
to Modify Alternative Regulation Plans Filed
Pursuant to S.C. Code Ann. § 58-9-576(B) to
Take Into Account Recent Action by the Federal
Communications Commission

The South Carolina Telephone Coalition ("SCTC") hereby petitions the Public Service Commission of South Carolina ("Commission"), pursuant to S.C. Code Ann. § 58-9-280(H), to establish new price caps for basic local residential service provided under alternative regulation plans filed by SCTC member companies. The existing plans cap basic local residential and single-line business service at the *statewide* average rates for such service. We respectfully request that the Commission establish new price caps for basic local residential service at the applicable *nationwide* average rates for such service. This action is necessary in order to allow SCTC member companies the flexibility to meet rate floors established by the Federal Communications Commission ("FCC"), as explained in its recent order comprehensively reforming universal service and intercarrier compensation.¹ The FCC will require companies to meet certain rate floors in order to be able to draw the amount of federal high cost universal service support for which they are eligible under the *USF-ICC Transformation Order*, which itself represents a significant reduction from current federal

1 Report and Order and Further Notice of Proposed Rulemaking, Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208; and FCC 11-161, rel. Nov. 18, 2011 (“USF-ICC Transformation Order”).

universal service funding and intercarrier compensation revenues for the affected companies.² Modifying the alternative regulation plans for SCTC member companies is a necessary step in providing these companies with the flexibility they need in order to ensure the continued provision of basic local exchange telephone service at affordable rates in South Carolina.

In support of its Petition SCTC would respectfully show unto this honorable Commission the following:

A. Background and Relief Requested

1. On November 18, 2011, the FCC issued the *USF-ICC Transformation Order*, which comprehensively reforms the universal service and intercarrier compensation systems.³ As part of that comprehensive reform, the FCC created the Connect America Fund (“CAF”). The CAF will ultimately replace all existing federal high-cost support mechanisms and much of the intercarrier compensation that flows between carriers today.⁴

2. As federal universal service support transitions to the CAF, many rate-of-return carriers, including SCTC member companies, will continue, for some time period, to receive support under existing federal support mechanisms, subject to specific modifications that will reduce or limit the amount of federal support they can receive.⁵ Specifically, the FCC established benchmarks to limit reimbursable capital and operations expenses for purposes of determining High Cost Loop Support (“HCLS”) for rate-of-return carriers.⁶ Other changes implemented by the FCC to existing universal service support mechanisms include eliminating

² Among other reforms, the *USF-ICC Transformation Order* limits rate-of-return carriers’ reimbursable capital and operations expense for purposes of determining High Cost Loop Support. *See USF-ICC Transformation Order* at ¶ 196. Additionally, as the Commission is aware from past proceedings, intercarrier compensation is being transitioned away from access and reciprocal compensation to CAF, on a significantly reduced basis, with rate-of-return carriers taking a 5% reduction in total revenues each year. *See id.* at ¶ 899.

³ *See id.*

⁴ *See id.* at ¶ 20, ¶¶ 736-1008.

⁵ *See id.* at ¶ 194.

⁶ *See id.* at ¶ 196.

safety net additive support; eliminating local switching support; eliminating support for federal rate-of-return companies in any study area that is completely overlapped by an unsubsidized competitor; and capping support at \$250 per line per month.⁷ In addition to these reductions in federal universal service funding, the FCC implemented intercarrier compensation reforms that will drastically reduce the revenues carriers currently receive from other carriers in the form of access and reciprocal compensation charges.⁸

3. The FCC also directed that, in order to ensure that federal universal service support was not being used to subsidize artificially low end-user rates, HCLS will be reduced, on a dollar-for-dollar basis, to the extent that a carrier's local rates are below a specified urban local rate floor.⁹ The rate floor will be phased to full implementation on July 1, 2014, and adjusted annually thereafter.¹⁰

4. More specifically, the FCC will limit high-cost support where local end-user rates plus state regulated fees (specifically, state Subscriber Line Charges or SLCs, state universal service fees, and mandatory extended area service charges) do not meet an urban rate floor representing the national average of local rates plus such state regulated fees.¹¹ The FCC is in the process of phasing in the rate floor in three steps, beginning with an initial rate floor of \$10 for the period July 1, 2012 through June 30, 2013 and \$14 for the period July 1, 2013 through June 30, 2014.¹² Beginning July 1, 2014, and in each subsequent year, the rate floor will be established after the FCC's Wireline Competition Bureau completes an updated annual survey of voice rates.¹³

⁷ See *id.* at ¶¶ 198-201.

⁸ See *id.* at ¶¶ 736-1008.

⁹ See *id.* at ¶ 197.

¹⁰ *Id.*

¹¹ See *id.* at ¶ 238.

¹² See *id.* at ¶ 239.

¹³ *Id.*

5. Attached hereto as Exhibit A is a table showing current tariffed residential rates and mandatory EAS charges for each SCTC company requesting modification to its alternative regulation plan. There is not a state SLC in South Carolina.¹⁴ As the table indicates, the residential rates for these SCTC companies are above the FCC-established rate floor for the initial two steps, *i.e.* through June 30, 2014. However, the rates for most companies are below the current nationwide average residential rate of \$15.62, and it is likely that the 2014 rate floor to be implemented by the FCC will be even higher.¹⁵

6. SCTC companies must meet the FCC's rate floor in order to avoid losing federal universal service funding that already is being severely limited. Rural telephone companies simply cannot afford to have critical federal funding reduced, especially at a time when additional obligations are being imposed upon them.

7. At this time, the FCC has not yet established the urban local rate floor for purposes of determining HCLS support beginning July 1, 2014. It is expected that the first such rate floor will be determined by the FCC in the second half of 2013 to be implemented before July 1, 2014, with new rate floors established thereafter on an annual basis. The SCTC member companies are requesting the flexibility they need under their alternative regulation plans to be able to adjust rates

¹⁴ We have not included a calculation of state universal service fees in the companies' residential end-user rates at this time, for a number of reasons. First, the imposition of a State universal service fee is not mandatory in South Carolina, and it is not known whether such a fee should be included. Second, if it must be included, it is unclear how the fee should be calculated for purposes of the FCC's rate floor. In South Carolina, there is no set fee. Instead, companies that impose a fee are required to assess the charge based on a percentage of end user retail telecommunications revenues. The current State USF surcharge is 2.5992% which, if applied to the statewide average residential rate of \$14.35, equals approximately 37 cents. The State USF surcharge percentage is recalculated annually and is subject to change. At the appropriate time, and prior to adjusting any rates to meet specific rate floors, the SCTC companies expect to receive guidance on whether and how state universal service fees are to be included in determining the amount.

¹⁵ According to the FCC, the 2008 national average residential rate was \$15.62. *See USF-ICC Transformation Order* at ¶ 236. The FCC was referencing data submitted by NECA summarizing R-1 rates for over 600 companies – "a broad cross-section of carriers that typically receive universal service support." While the 2014 rate floor has yet to be calculated, it is generally believed that it will be in the range of \$16.00 to \$17.00.

to meet any rate floors established by the FCC as a condition to receiving federal high cost loop support.

8. The SCTC companies request that the Commission grant this relief on an expedited basis. Granting this Petition on an expedited basis will: (a) Give the individual companies the flexibility they need to determine, on a company-by-company basis, whether rate increases are necessary under the circumstances in order to retain federal funding and continue providing basic local service at affordable rates; and (b) Allow the companies to phase in any needed increases over a two-year period in order to mitigate the impact of those increases on their end-user customers to the greatest extent possible. By taking steps to ensure that South Carolina rural companies do not lose critical federal funding for universal service, the Commission will help minimize pressure on state funding mechanisms.

B. Legal Authority

9. Basic local residential rates of companies that are currently under alternative regulation pursuant to S.C. Code Ann. § 58-9-576(B) are subject to price caps. Currently, rural telephone companies operating under alternative regulation plans pursuant to S.C. Code Ann. § 58-9-576(B) may raise their basic local residential rates to the statewide average, and then the rate is frozen for two years.¹⁶ After the two-year freeze, basic local residential rates may be adjusted on an annual basis pursuant to an inflation-based index.¹⁷ Attached hereto as Exhibit B is a list of the SCTC member companies operating under alternative regulation, along with the effective dates on which they elected alternative regulation under S.C. Code Ann. § 58-9-576(B).

10. S.C. Code Ann. § 58-9-280(H) provides in part: “Any local exchange carrier, upon a showing of changed circumstances or that it is necessary or appropriate to realign rates

¹⁶ See S.C. Code Ann. § 58-9-576(B)(3).

¹⁷ See S.C. Code Ann. § 58-9-576(B)(4).

with the costs of various telecommunications components, may petition the commission to reexamine any rates that have been capped pursuant to the provisions of [Chapter 9 of Title 58 of the S.C. Code of Laws] and to set new price caps.”

11. The SCTC member companies who are subject to alternative regulation and whose basic local residential rates are capped pursuant to S.C. Code Ann. § 58-9-576(B) respectfully submit that the FCC’s issuance of the *USF-ICC Transformation Order* constitutes a change in circumstances. Additionally, this change makes it necessary for the companies to align their basic local residential rates with costs by having the flexibility to adjust those rates to the nationwide average as determined by the FCC and set as the rate floor for purposes of CAF eligibility. Therefore, we respectfully request that the Commission set new price caps for those companies at a level equal to the applicable basic local residential nationwide average rate(s) for such service. This rate level is currently \$15.62, and will be updated when the FCC recalculates the national average rate to establish the urban rate floor for purposes of receiving HCLS support beginning July 1, 2014.

12. Allowing SCTC member companies the flexibility they need to meet the FCC’s rate floors is in the public interest. The FCC adopted a rule to limit high-cost support where end-user rates do not meet a specified local rate floor in order to meet the statutory mandate of Section 254(b) of the Telecommunications Act of 1996 that “[c]onsumers in all regions of the Nation ... should have access to telecommunications and information services ... that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”¹⁸ Furthermore, the FCC’s rule was adopted to ensure that consumers in some states are not unfairly contributing to the CAF to support customers in other states whose rates are below a

¹⁸ See *USF-ICC Transformation Order* at ¶¶ 234-235.

“reasonable level.”¹⁹ Thus, granting the SCTC’s request is in the public interest and is consistent with the Telecommunications Act of 1996, as amended, because it will help ensure the continued provision of high-quality basic local exchange telephone service at affordable rates to all citizens. The steps outlined above will assist in ensuring that additional costs are not shifted to the State of South Carolina from the federal jurisdiction, and that South Carolina companies can continue to draw support from the federal universal service support mechanisms.

WHEREFORE, the South Carolina Telephone Coalition respectfully requests that this honorable Commission:

- (1) establish new price caps for basic local residential service provided under alternative regulation plans filed by SCTC member companies, pursuant to S.C. Code Ann. § 58-9-280(H), at the applicable nationwide average rates for such service (currently \$15.62, and to be calculated on an annual basis by the FCC);
- (2) grant the requested relief on an expedited basis for the reasons stated herein;
- (3) appoint a Hearing Officer in this matter to help expedite the matter; and
- (4) grant such other and further relief as is just and proper.

¹⁹ See *id.* at ¶ 238.

Respectfully submitted,

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By: 

Attorneys for South Carolina Telephone
Coalition

February 8, 2013
Columbia, South Carolina

EXHIBIT A
Affected SCTC Companies' Current Residential (R1) Rates Including Mandatory EAS Charges

	<u>Rate</u>
Chester Telephone Company (TruVista)	\$ 14.35
Farmers Telephone Cooperative, Inc.	\$ 14.35
Ft. Mill Telephone Company (Comporium)	\$ 14.35
Home Telephone Company, Inc.	\$ 14.35
Horry Telephone Cooperative, Inc.	\$ 13.50
Lancaster Telephone Company (Comporium)	\$ 19.35 (Heath Springs)
All other Lancaster Exchanges	\$ 14.35
Lockhart Telephone Company (TruVista)	\$ 14.35
McClellanville Telephone Company	\$ 14.35
Norway Telephone Company	\$ 14.35
Piedmont Rural Telephone Cooperative, Inc.	\$16.15 (Enoree)
All other Piedmont Exchanges	\$ 14.35
PBT Telecom	\$ 14.35
Ridgeway Telephone Company (TruVista)	\$ 14.35
Rock Hill Telephone Company (Comporium)	\$ 14.35
St. Stephen Telephone Company	\$ 14.35
West Carolina Rural Telephone Cooperative, Inc.	\$ 14.35
Williston Telephone Company	\$ 14.35

EXHIBIT B
Alternative Regulation Status of Affected Companies

	<u>Effective Date</u>
Chester Telephone Company (TruVista)	May 18, 2007
Farmers Telephone Cooperative, Inc.	May 1, 2008
Ft. Mill Telephone Company (Comporium)	August 1, 2005
Home Telephone Company, Inc.	April 7, 2006
Horry Telephone Cooperative, Inc.	March 28, 2003
Lancaster Telephone Company (Comporium)	August 1, 2005
Lockhart Telephone Company (TruVista)	May 18, 2007
McClellanville Telephone Company	May 30, 2005
Norway Telephone Company	May 30, 2005
Piedmont Rural Telephone Cooperative, Inc.	January 12, 2007
PBT Telecom	February 18, 2006
Ridgeway Telephone Company (TruVista)	May 18, 2007
Rock Hill Telephone Company (Comporium)	August 1, 2005
St. Stephen Telephone Company	May 30, 2005
West Carolina Rural Telephone Cooperative, Inc.	October 16, 2006
Williston Telephone Company	May 30, 2005

DOCKET NO. 2013-____ - C

CERTIFICATE OF SERVICE

COLUMBIA 1105434v1